REMARKS

This is a full and timely response to the outstanding final Office Action mailed September 13, 2007. Through this response, claims 55-58 have been canceled without prejudice, waiver, or disclaimer. Reconsideration and allowance of the application and pending claims 2, 3, 5-30, 32-37, and 39-64 are respectfully requested.

I. Claim Rejections - 35 U.S.C. § 112, First Paragraph

Claims 2, 3, 5-30, 32-37, and 39-64 have been rejected under 35 U.S.C. § 112, first paragraph, for allegedly failing to comply with the written description requirement. In particular, the final Office Action alleges the following (page 2, section 1):

> The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the invention(s), at the time the application was filed, had possession of the claimed invention. In particular, claims 63 and 64, it is unclear as to where support is found for the claimed "...browse-by icon..." recited in claims 63 and 64. There is no disclosure for the claimed "browse-by icon." Furthermore the specification and figures as originally presented do not illustrates[sic] the claimed "browse-by icon."

Applicants respectfully disagree. To assist the Examiner, Applicants have included with this response a marked-up copy of Figure 4 from Applicants' specification (identified as Exhibit A), where Applicants have circled a browse-by icon (see, e.g., the triangle symbol encompassing the letter "A" with the phrase "browse-by adjacent to the triangle symbol) as recited in claims 63 and 64. As set forth in MPEP 2163:

> While there is no *in haec verba* requirement, newly added claim limitations must be supported in the specification through express, implicit, or inherent disclosure.

Thus, although Applicants note that the exact term "icon" ("option" is used in the specification) is not explicitly presented verbatim in the specification, Applicants also note that the patent rules do not require identical language to be used between the specification

and claims. Further, Applicants note that, based at least on Figure 4, it can properly be concluded that there is explicit support in the specification for the term icon, and more specifically, the phrase "browse-by icon." Even assuming *arguendo* that explicit support is denied in the next action, at the very least it can be said that there is implicit support.

Additionally, based on Figure 4 and the well-established use of the term "icon" in display and graphics user interface technology, one having ordinary skill in the art would reasonably conclude possession of the claimed subject matter. In that the rejection is believed to have been overcome, Applicants respectfully request that the rejection of these claims under 35 U.S.C. § 112, first paragraph, where not rendered moot by cancellation of claims, be withdrawn.

II. Claim Rejections - 35 U.S.C. § 103(a)

A. Rejection of Claims 2, 3, 5-30, 32-37 and 39-64

Claims 2, 3, 5-30, 32-37 and 39-64 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Rothmuller* ("*Rothmuller*," U.S. Pat. No. 5,635,989) in view of *Legall et al.* ("*Legall*," U.S. Pat. No.6,005,565). Claims 9-14 and 39-41 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Rothmuller* in view of *Legall*, and further in view of *Boyer et al.* ("*Boyer*," U.S. Pat. No. 6,268,849). Applicants respectfully traverse these rejections.

B. Discussion of the Rejection

The U.S. Patent and Trademark Office ("USPTO") has the burden under section 103 to establish a *prima facie* case of obviousness according to the factual inquiries expressed in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). The four factual inquires, also expressed in MPEP 2100-116, are as follows:

(A) Determining the scope and contents of the prior art;

(B) Ascertaining the differences between the prior art and the claims in issue;

(C) Resolving the level of ordinary skill in the pertinent art; and

(D) Evaluating evidence of secondary considerations.

Applicants respectfully submit that a *prima facie* case of obviousness is not established using the art of record.

Independent Claim 63

Claim 63 recites (with emphasis added):

> 63. A programmable television services client device for enabling a user to search for television program information, said client device comprising:
>
> memory comprising:
>
> program information corresponding to a plurality of television programs;
>
> an initial interactive program guide (IPG) arrangement; and
>
> a user interface (UI) module; and
>
> a processor configured with the UI module to associate the program information with the initial IPG arrangement, the processor further configured with the UI module to:
>
> present the initial IPG arrangement on a display device, the initial IPG arrangement including a channel area, a first program display area adjacent the channel area, and ***a browse-by icon***;
>
> ***receive a first user input corresponding to selection of the browse-by icon***;
>
> ***present a first IPG arrangement on the display device responsive to the first user input, the first IPG arrangement comprising a browse-by area that displaces the channel area, the browse-by area having a search option***;
>
> receive a second user input corresponding to selection of the search option;
>
> ***present a second IPG arrangement on the display device responsive to the second user input, the second IPG arrangement comprising a user input field that displaces the browse-by area***;
>
> receive a third user input corresponding to a search term, the third user input entered through the user input field;
>
> search the program information based on the search term; and
>
> ***present a third IPG arrangement on the display device responsive to the search, the third IPG arrangement***

> ***comprising a second program display area that displaces the user input field, the second program display area comprising a search result*** comprising the program information for a portion of the plurality of television programs where the search term is in a respective television program title.

Applicants respectfully submit that *Rothmuller* in view of *Legall* fails to disclose, teach, or suggest at least the above emphasized claim features. Initially, Applicants wish to point out that the final Office Action addresses features not found in the claims. For instance, on page 3 of the final Office Action, the following is alleged (emphasis added):

> Present the initial IPG arrangement on a display device, the initial IPG arrangement including a channel area, a first program display area adjacent the channel area, and a browse area; receive a first user input corresponding to selection of the browse area

Applicants do not claim that the "initial IPG arrangement" includes a browse-by area, but rather, a ***browse-by icon***. Likewise, the first user input corresponds to the selection of a ***browse-by icon***, not browse-by area.

Further, it is noted that the ***browse-by icon*** feature is not addressed anywhere in the final Office Action, resulting in an improper omission of one or more essential elements necessary for a prima facie rejection. According to MPEP 2163, it would appear that at the very least, regardless of the outcome of the 35 U.S.C. 112, first paragraph analysis, the explicit claim features should be considered under at least 35 U.S.C. 102 and 103. That is, MPEP 2163 provides as follows:

> The above only describes how to determine whether the written description requirement of 35 U.S.C. 112, para. 1, is satisfied. Regardless of the outcome of that determination, Office personnel must complete the patentability determination under all the relevant statutory provisions of title 35 of the U.S. Code.

There is no evidence that the above analysis was performed for the ***browse-by icon*** feature.

Additionally, it is unclear from the final Office Action where the features of ***present a first IPG arrangement on the display device responsive to the first user input, the first IPG arrangement comprising a browse-by area that displaces the channel area, the browse-by area having a search option*** is allegedly disclosed or taught in *Rothmuller*, or whether such features are taught at all. For instance, the final Office Action alleges the following on page 3:

> The first IPG (EPG-1) arrangement comprising a browse-by area that displaces the channel area, the browse-by area having a search option (favorite list, col. 5, lines 4-48).

The cited section from *Rothmuller* is in reference to Figures 1 and 2, which collectively not only fail to show a ***browse-by area***, but also fail to disclose that the ***browse-by area*** has a ***search option*** or that the "browse-by area" ***displaces the channel area*** as claimed. The unclarity in the rejection stems from the fact that, regardless of what the final Office Action alleges that *Rothmuller* shows (as alleged in the above reproduced section of the final Office Action), further down the page (page 3) of the final Office Action, the following contradictory admission is made:

> Rothmuller fails to explicitly teach a user-selectable search option having browse-by area having a search option...

In addition, the final Office Action alleges (page 4) that *Rothmuller* teaches the following (emphasis added):

> The second IPG arrangement comprising a user input field that displaces the browse-by area; receive a third user input corresponding to a search term, the third user input entered through the user input field...present a third IPG arrangement...comprising a second program display area that displaces the user input field...(see fig. 2-4 and col. 4, line 29 – col. 5, line 3 and line 59-col. 6, line 39 and line 60-col. 7, line 9).

Applicants respectfully disagree that *Rothmuller* discloses these features. Additionally, Applicants are perplexed as to the citations to *Rothmuller* provided by the final Office

Action. Is the final Office Action asserting that the relevant features alleged as taught in *Rothmuller* are to be found in column 4, line 29 through column 5, line 3 AND separately on line 59 of column 5? Or is the citation to col. 5, line 59 through column 6, line 39? Similarly, is the final Office Action alleging the features are taught in column 6, line 39 and in column 6, line 60 through column 7, line 9? That is, the hyphens are misleading. Applicants respectfully submit that the citations are not helpful in advancing prosecution on the merits. In any event, Applicants have reviewed the entirety of *Rothmuller*, and respectfully submit that the above-emphasized features as claimed are not disclosed, taught, or suggested. For instance, *Rothmuller* does not disclose, teach, or suggest the claimed ***user input field***, nor a displacement of a browse-by area by the ***user input field***. It is noted that the search features in *Rothmuller* appear to be remote control based (e.g., see column 5, and in particular, col. 5, line 3 of *Rothmuller*), and not accompanied by a user interface in the manner as claimed. Nor does *Rothmuller* disclose, teach, or suggest a displacement of the ***user input field*** with ***a second program display area*** that comprises a ***search result***.

Additionally, Applicants respectfully submit that the addition of *Legall* fails to remedy the deficiencies of *Rothmuller*. The final Office Action alleges the following on page 4 (no emphasis added):

> However, note the **Legall** reference figs 2-4, discloses integrated search of electronic program guide, Internet and other information resources and further discloses a user-selectable search option having browse area and various guide arrangements and additional search options; Power Search area which is also a channel area for selecting channels to be searched, while retaining in a display, the program display area (figs.2 and 3B and col. 2, line 57-col. 5, line 1+), note that Legall clearly illustrates a display interface of multiple windows, one that displays the current tune channel and second window which includes a channel search area and also a power search area where a user selectable search option are displayed, and further discloses that once the user selects to proceed with the search, e.g., using "go" button 348...the EPG is updated (new EPG search parameters) to reflect those programs that meet the filter criteria, displayed over or in place of the old EPG within the channel area while

retaining in a display, the program display area.

Applicants respectfully disagree. Initially, Applicants respectfully disagree with the allegation that the Power Search area is a ***channel area***. Indeed, there is not a single channel listed in FIG. 3B in the area identified by 375. Applicants invite the Examiner to point to a single channel in the Power Search area 375. The area identified with the EPG in the upper right hand corner of the display is clearly distinguishable from the power search area 375 residing in the middle of the display.

Further, assuming *arguendo* the Power Search area is construed by the final Office Action as a ***browse-by area***, though unclear from the final Office Action, Applicants respectfully submit that *Legall* fails to remedy the deficiencies of *Rothmuller* for at least the reason that a ***browse-by icon*** is not disclosed (or even alleged in the final Office Action to be disclosed) by *Legall*.

Another reason *Legall* fails to remedy the deficiencies of *Rothmuller* is because *Legall* does not disclose the explicitly claimed displacement features (e.g., ***comprising a browse-by area that displaces the channel area, user input field that displaces the browse-by area, a second program display area that displaces the user input field, the second program display area comprising a search result***). Clearly, there is no disclosed displacement in the manner claimed. Assuming *arguendo* there is an update of the EPG in *Legall*, that alone is insufficient to disclose, teach, or suggest the claimed features for displacement. For instance, there is no teaching in *Legall* that the Power Search area (assuming for the sake of argument an equivalent to a ***browse-by area***) displaces the channel area of the EPG. Likewise, as another example, there is no teaching in *Legall* that the topic window 340 (assuming for the sake of argument an equivalent to a ***user input field***) displaces the Power Search area (assuming for the sake of argument an equivalent to a ***browse-by area***).

Accordingly, for at least these reasons, Applicants respectfully submit that a prima facie case of obviousness is not established for independent claim 63, and hence respectfully request that the rejection be withdrawn.

Because independent claim 63 is allowable over *Rothmuller* and *Legall*, dependent claims 2, 3, 5-30, 59, and 60 are allowable as a matter of law for at least the reason that the dependent claims 2, 3, 5-30, 59, and 60 contain all elements of their respective base claim. See, *e.g.*, *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

Additionally, Applicants wish to point out that the final Office Action addresses features not found in the claims. For instance, on page 5 of the final Office Action, the following is alleged (emphasis added):

> The EPG is updated (new EPG search parameters) to reflect those programs that meet the filter criteria, displayed over or in place of the old EPG within the channel area <u>while retaining in a display, the program display area.</u>

That is, the above highlighted phrase is not found in the presently pending independent claim 63.

Further, Applicants respectfully note that the final Office Action appears premature in view of the contradictory explanations and omission of essential elements in the final Office Action. As required under MPEP 706.07:

> Before final rejection is in order a clear issue should be developed between the examiner and applicant.

As suggested under 37 C.F.R. 1.181(c), Applicants respectfully request reconsideration of the finality of the Office Action, and in particular, request that the next Office Action be made non-final to afford Applicants an opportunity to respond to a rejection that fully addresses the claimed features.

Independent Claim 64

Claim 64 recites (with emphasis added):

> 64. A method for implementing a programmable television services client device to enable a user to search for television program information, said method for implementing a programmable television services client device comprising the steps of:
> presenting an initial IPG arrangement on a display device, the initial IPG arrangement including a channel area, a first program display area adjacent the channel area, ***and a browse-by icon***;
> ***receiving a first user input corresponding to selection of the browse-by icon***;
> ***presenting a first IPG arrangement on the display device responsive to the first user input, the first IPG arrangement comprising a browse-by area that displaces the channel area, the browse-by area having a search option***;
> receiving a second user input corresponding to selection of the search option;
> ***presenting a second IPG arrangement on the display device responsive to the second user input, the second IPG arrangement comprising a user input field that displaces the browse-by area***;
> receiving a third user input corresponding to a search term, the third user input entered through the user input field;
> searching the program information based on the search term; and
> ***presenting a third IPG arrangement on the display device responsive to the search, the third IPG arrangement comprising a second program display area that displaces the user input field***, the second program display area comprising a search result comprising the program information for a portion of the plurality of television programs where the search term is in a respective television program title.

Applicants respectfully submit that *Rothmuller* in view of *Legall* fails to disclose, teach, or suggest at least the above emphasized claim features. As explained above, Applicants wish to point out that the final Office Action addresses features not found in the claims. For instance, on page 3 of the final Office Action, the following is alleged (emphasis added):

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Applicants do not claim that the "initial IPG arrangement" includes a browse-by area, but

rather, a ***browse-by icon***. Likewise, the first user input corresponds to the selection of a ***browse-by icon***, not browse-by area.

Further, it is noted that the ***browse-by icon*** feature is not addressed anywhere in the final Office Action, resulting in an improper omission of one or more essential elements necessary for a prima facie rejection. According to MPEP 2163, it would appear that at the very least, regardless of the outcome of the 35 U.S.C. 112, first paragraph analysis, the explicit claim features should be considered under at least 35 U.S.C. 102 and 103. That is, MPEP 2163 provides as follows:

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There is no evidence that the above analysis was performed for the ***browse-by icon*** feature.

Additionally, it is unclear from the final Office Action where the features of ***presenting a first IPG arrangement on the display device responsive to the first user input, the first IPG arrangement comprising a browse-by area that displaces the channel area, the browse-by area having a search option*** is allegedly disclosed or taught in *Rothmuller*, or whether such features are taught at all. For instance, the final Office Action alleges the following on page 3:

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Applicants respectfully disagree that *Rothmuller* discloses these features. Additionally, Applicants are perplexed as to the citations to *Rothmuller* provided by the final Office Action. Is the final Office Action asserting that the relevant features alleged as taught in *Rothmuller* are to be found in column 4, line 29 through column 5, line 3 AND separately on line 59 of column 5? Or is the citation to col. 5, line 59 through column 6, line 39? Similarly, is the final Office Action alleging the features are taught in column 6, line 39 and in column 6, line 60 through column 7, line 9? That is, the hyphens are misleading. Applicants respectfully submit that the citations are not helpful in advancing prosecution on the merits. In any event, Applicants have reviewed the entirety of *Rothmuller*, and respectfully submit that the above-emphasized features as claimed are not disclosed, taught, or suggested. For instance, *Rothmuller* does not disclose, teach, or suggest the claimed ***user input field***, nor a displacement of a browse-by area by the ***user input field***. It is noted that the search features in *Rothmuller* appear to be remote control

based (e.g., see column 5, and in particular, col. 5, line 3 of *Rothmuller*), and not accompanied by a user interface in the manner as claimed. Nor does *Rothmuller* disclose, teach, or suggest a displacement of the ***user input field*** with ***a second program display area*** that comprises a ***search result***.

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Applicants respectfully disagree. Initially, Applicants respectfully disagree with the allegation that the Power Search area is a ***channel area***. Indeed, there is not a single channel listed in FIG. 3B in the area identified by 375. Applicants invite the Examiner to point to a single channel in the Power Search area 375. The area identified with the EPG in the upper right hand corner of the display is clearly distinguishable from the power search area 375 residing in the middle of the display.

Further, assuming *arguendo* the Power Search area is construed by the final Office Action as a ***browse-by area***, though unclear from the final Office Action, Applicants respectfully submit that *Legall* fails to remedy the deficiencies of *Rothmuller* for at least the reason that a ***browse-by icon*** is not disclosed (or even alleged in the

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Another reason *Legall* fails to remedy the deficiencies of *Rothmuller* is because *Legall* does not disclose the explicitly claimed displacement features (e.g., ***comprising a browse-by area that displaces the channel area, user input field that displaces the browse-by area, a second program display area that displaces the user input field, the second program display area comprising a search result***). Clearly, there is no disclosed displacement in the manner claimed. Assuming *arguendo* there is an update of the EPG in *Legall*, that event alone is insufficient to disclose, teach, or suggest the claimed features for displacement. For instance, there is no teaching in *Legall* that the Power Search area (assuming for the sake of argument an equivalent to a ***browse-by area***) displaces the channel area of the EPG. Likewise, as another example, there is no teaching in *Legall* that the topic window 340 (assuming for the sake of argument an equivalent to a ***user input field***) displaces the Power Search area (assuming for the sake of argument an equivalent to a ***browse-by area***).

Accordingly, for at least these reasons, Applicants respectfully submit that a prima facie case of obviousness is not established for independent claim 64, and hence respectfully request that the rejection be withdrawn.

Because independent claim 64 is allowable over *Rothmuller* and *Legall*, dependent claims 32-37, 39-54, 61, and 62 are allowable as a matter of law.

Additionally, Applicants wish to point out that the final Office Action addresses features not found in the claims. For instance, on page 5 of the final Office Action, the following is alleged (emphasis added):

> The EPG is updated (new EPG search parameters) to reflect those programs that meet the filter criteria, displayed over or in place of the old EPG within the channel area <u>while retaining in a display, the program display area.</u>

That is, the above highlighted phrase is not found in the presently pending independent claim 64.

Further, Applicants respectfully note that the final Office Action appears premature in view of the contradictory explanations and omission of essential elements in the final Office Action. As required under MPEP 706.07:

> Before final rejection is in order a clear issue should be developed between the examiner and applicant.

As suggested under 37 C.F.R. 1.181(c), Applicants respectfully request reconsideration of the finality of the Office Action, and in particular, request that the next Office Action be made non-final to afford Applicants an opportunity to respond to a rejection that fully addresses the claimed features.

Claims 9-14 and 39-41

As explained above, Applicants respectfully submit that *Rothmuller* in view of *Legall* fails to disclose, teach, or suggest at least the above emphasized claim features for independent claims 63 and 64. Further, Boyer fails to remedy at least the above-emphasized features. Accordingly, Applicants respectfully submit that claims 9-14 and 39-41, which incorporate the respective base claim features, are allowable as a matter of law.

In summary, it is Applicants' position that a *prima facie* for obviousness has not been made against Applicants' claims. Therefore, it is respectfully submitted that each of these claims is patentable over the art of record and that the rejection of these claims should be withdrawn.

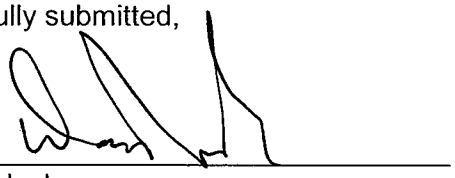
III. Canceled Claims

As identified above, claims 55-58 have been canceled from the application through this response without prejudice, waiver, or disclaimer. Applicants reserve the right to present these canceled claims, or variants thereof, in continuing applications to be filed subsequently.

CONCLUSION

Applicants respectfully submit that Applicants' pending claims are in condition for allowance. Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, and similarly interpreted statements, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



David Rodack
Registration No. 47,034

THOMAS, KAYDEN,
HORSTEMEYER & RISLEY, L.L.P.
Suite 1750
100 Galleria Parkway N.W.
Atlanta, Georgia 30339
(770) 933-9500